

Ser. No. 10/728,318 (Conf. No: 9374) (Barry G. Lawrence)  
Filed: 12/04/2003  
Amendment dated December 22, 2004  
Responding to Office Action dated October 20, 2004

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### REMARKS

Applicants appreciate the Examiner's careful study of the pending application and claims.

The Examiner rejected all thirty pending claims as either anticipated or obvious in view of U.S. Pat. No. 4,736,972 to Mosch. The Examiner further objected to Claims 18-21 as unclear.

Regarding the 35 U.S.C. §102(b) rejection of Claims 1-22 and 25-30, Applicants respond with particular attention to independent Claims 1, 13, and 22.

Claim 1 recites, in part, "a keeper defining an internal cavity" and "a housing having an interior that defines a keeper recess." These two claim elements are important because the keeper is designed to selectively engage the keeper recess within the housing. Further, the cam occupies the internal cavity to urge the keeper to engage the keeper recess. *See* paragraphs [0012] and [0034] to [0036].

In contrast, the '972 patent fails to disclose a keeper defining an internal cavity. Instead, the '972 patent shows a keeper 12 having "a locking member 52 having a curved surface 53." *See* column 3, lines 53-54. The locking member, which equates to the "tooth-like protrusion" discussed in the instant application, engages a spiral cam flange disposed in the housing. *See* column 3, lines 50-54. The engagement of the tooth-like protrusion and the cam is required for the check rail lock of the '972 patent to function. No such engagement is required in the instant invention. Furthermore, the design of the '972 patent suffers from the problems outlined in the instant application. *See* paragraphs [0004] to [0006]. Namely, these problems include failure of the lock components due to stress from the engaging surfaces and failure of the lock to operate if not precisely aligned.

The '972 patent further fails to disclose a housing having an interior that defines a keeper recess as recited in Claim 1. There is no part of the housing in the '972 patent disclosure that is constructed to fit enclosably over at least part of the keeper as claimed in the instant invention. Thus, Applicant submits that the '972 patent is an inapt reference. Indeed, Applicant respectfully contends that any reference that fails to disclose a housing that forms a recess to fit

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enclosably over at least part of the keeper is inapt.

Applicant contends similarly with respect to Claim 13. The '972 patent fails to disclose a keeper defining an internal cavity or a housing defining a keeper recess. Accordingly, the '972 patent fails to disclose engagement between the keeper and the keeper recess within the housing as claimed.

With respect to Claim 22, the '972 patent fails to disclose a keeper defining an internal cavity, a housing defining a second tier-recess combination (also referred to in the instant application as the keeper recess), a second tier-recess combination extending along at least a portion of the housing, or a keeper nestable within the second tier-recess combination.

In view of the foregoing, Applicant submits that the '972 patent is an inapt reference and respectfully requests withdrawal of the 35 U.S.C. §102(b) rejections.

Regarding the 35 U.S.C. §103(a) rejection of Claims 23-24, Applicant respectfully contends that, given the fundamental differences between the '972 patent and the instant application as discussed previously, there is no motivation in the '972 patent to provide a window unit having a locking mechanism as claimed, regardless of material construction. Thus, Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejections.

Finally, Applicant herein amends Claims 18-21 to clarify that the engagement means urges the indicated surface area of the keeper to engage the keeper recess. Applicant believes that this amendment addresses the Examiner's objections.

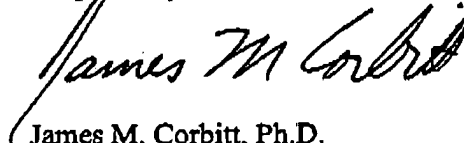
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CONCLUSION

Based on the foregoing amendments, Applicant respectfully submits that Claims 1-30 are in condition for immediate allowance and the same is respectfully requested.

Respectfully submitted,

  
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to the Commissioner for Patents to the attention of Examiner John B. Walsh at Fax No. 703-872-9306 on December 22, 2004

December 22, 2004  
Date

Patricia Summers  
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